

THIS DOCUMENT CONTAINS SENSITIVE DATA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

BRITTNEY KENNEDY, INDIVIDUALLY §  
and as Surviving Spouse, on behalf of minor §  
M.S.K. and as Anticipated Personal §  
Representative of the Estate of MARQUIS §  
KENNEDY, §

Plaintiff, §

v. §

Case No. 4:24-cv-00208-P

THE CITY OF ARLINGTON, TEXAS, §  
THE ARLINGTON POLICE §  
DEPARTMENT, D/B/A ARLINGTON §  
BASIC POLICE TRAINING ACADEMY, §  
CITY OF ARLINGTON PURCHASING §  
DEPARTMENT, AND GRACIE §  
UNIVERSITY, §

Defendants. §

**REPORT OF GUARDIAN AD LITEM**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Jennifer Cole, Guardian Ad Litem of M.S.K., a minor child, and files this her Report of Guardian Ad Litem.

1. Guardian Ad Litem was appointed by Order of this Court on January 8, 2025.
2. Guardian Ad Litem will supplement this report in a more detailed oral report in Court at the minor prove up hearing.
3. Plaintiff is the sole living parent of M.S.K. and is therefore the proper person to make legal decisions on his behalf. As alleged in Plaintiff's pleadings, Marquis Kennedy, then 40 years

old, died following a combat training exercise on September 23, 2022. Mr. Kennedy's death left Plaintiff a widow and their son, M.S.K., without a father. The Plaintiff hired the attorneys at Witherspoon Law (hereinafter "Plaintiff's counsel") to file this case on their behalf after Mr. Kennedy's death.

4. This is a complex case, involving multiple defendants and a variety of causes of actions against the various Defendants.

5. Gracie University, one of the Defendants in the case, is the Defendant who designed and implemented the training in which Mr. Kennedy was participating before he died. Due to the circumstances of this case, the Plaintiff and Gracie University (hereinafter the "Settling Parties") came to an agreement to settle the causes of action involving Gracie University rather than take the case to trial. The Settling Parties agreed that the claims against Gracie University would be settled in exchange for a full release of said claims by Plaintiff.

6. The agreed upon settlement amount will be split between Ms. Kennedy and her son, after accounting for attorney's fees. Ms. Kennedy will receive a larger percentage of the recovery than M.S.K. to account for her now being the sole provider for M.S.K. until he reaches the age of majority. Due to the amount of the settlement and M.S.K.'s current age of only three (3) years old, his portion of the settlement funds will be placed into an annuity which will allow his portion of the funds to grow significantly before reaching the age of majority. Ms. Kennedy received multiple annuity options to review and from which to choose, and she chose the annuity which she believes will be the most beneficial to M.S.K.

7. Plaintiff entered into a standard fee agreement with her attorney where Plaintiff's counsel would receive forty percent (40%) of any moneys recovered in addition to case expenses.

Despite significant case expenses, including multiple expert witnesses, Plaintiff's counsel has agreed to take the agreed upon 40% of the recovery but not any case expenses. As the Court is aware, 40% of recovery in this type of lawsuit is considered within a reasonable recovery range for attorney's fees. While the Guardian Ad Litem would always like to see the minor receive additional funds, because of the complexity of this litigation, the difficulty of pursuing the claims involved, and the amount of work performed on this case, Guardian Ad Litem believes said attorneys' fees are reasonable.

8. As part of this appointment, Guardian Ad Litem has spent time reviewing pleadings and discussing the case with Plaintiff's counsel. In addition, Guardian Ad Litem spent time discussing the case, settlement and annuity with Plaintiff and the minor. Based on the facts of this case, and the risks associated with an uncertain recovery if taken to trial, Guardian Ad Litem believes that the settlement is fair, reasonable and in the best interest of the minor, M.S.K. The settlement with Gracie University does not prejudice the claims against the other Defendants, but provides Ms. Kennedy and M.S.K. with a guaranteed recovery from said Defendant.

9. Because Guardian Ad Litem was only recently appointed on this case and there are documents left to review at the time of this filing, as well as the hearing, Guardian Ad Litem does not have an estimate of her total hours. Guardian Ad Litem's time has been reasonable and necessary to fulfill her duties as Guardian Ad Litem. Guardian Ad Litem will spend additional time on the case in preparation for and during the final hearing. At the time of this filing, the total amount of Guardian Ad Litem's time and fees is unknown, but will be updated at the final hearing.

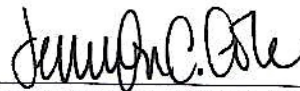
10. Guardian Ad Litem is an attorney licensed to practice law in the State of Texas and in the Northern District of Texas, and is familiar with the reasonable and customary fees charged by



attorneys serving as Guardian Ad Litem in the Northern District of Texas, Fort Worth Division. It is Guardian Ad Litem's opinion that her fees incurred are reasonable, customary and necessary for the services provided by her in this matter. Guardian Ad Litem will request that her fees and expenses be approved and paid for by the Defendant, Gracie University, after the final hearing. At the final hearing, the Guardian Ad Litem will request to be discharged of her duties as Guardian Ad Litem.

WHEREFORE, Guardian Ad Litem requests that the Court approve this Guardian Ad Litem Report.

Respectfully submitted,



JENNIFER C. COLE, SBN 24050465

Guardian Ad Litem

The Law Offices of Cole and Cole, PLLC

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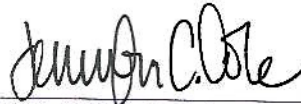
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CERTIFICATE OF SERVICE

On January 10, 2025, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, Fort Worth Division using the electronic case filing system of the court. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).



JENNIFER C. COLE